# UNITED STATES PATENT AND TRADEMARK OFFICE

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| 09/916,265 | 07/30/2001 | Takashi Hanamoto | 862.C2318 | 8676 |

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| 2623 | |

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Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

| | Application No. | | Applicant(s) | |
|---|---|---|---|---|
| **Office Action Summary** | 09/916,265 | | HANAMOTO, TAKASHI | |
| | Examiner | | Art Unit | |
| | Jon Chang | | 2623 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**.　　2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-55* is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,10-12,15-17,19-34,37-39,42-44 and 46-55* is/are rejected.

7)☒ Claim(s) *8,9,13,14,18,35,36,40,41 and 45* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 July 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☒ All　b)☐ Some *　c)☐ None of:

　　　1.☒ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____ .

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　　Paper No(s)/Mail Date *10/18/01*.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

## Claim Objections

1.      Claims 24, 25, 27, 51, 52 and 54 are objected to because of the following

informalities:

Claim 51 recites "location of color of image" which is ungrammatical.  See also

claim 24.

Claim 52 recites, "outline of object in the image" which is ungrammatical.  See

also claim 25.

Claim 54 recites, " display description of title" which is ungrammatical.  See also

claim 27.

Appropriate correction is required.

## Specification

2.      The disclosure is objected to because of the following informalities: on page 3, at

line 19, "providing1" should read "providing".

Appropriate correction is required.

## Claim Rejections - 35 USC § 101

3.      35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4.      Claim 55 is rejected under 35 U.S.C. 101 because the claimed invention is
directed to non-statutory subject matter.

Claim 55 is directed to a "program". Computer programs *per se*, are not
considered statutory subject matter. To avoid this rejection, the Examiner suggests the
claim be rewritten as follows: 1) Have the claim drawn to a computer program product
comprising a computer readable medium (or similar language), 2) Indicate that a
computer program for controlling a computer is stored on the medium, 3) State that the
program is for executing data editing processing, etc., 4) and that the computer program
product comprises the recited program codes.

## Claim Rejections - 35 USC § 112

5.      Claims 22 and 49 are rejected under 35 U.S.C. 112, second paragraph, as being
indefinite for failing to particularly point out and distinctly claim the subject matter which
applicant regards as the invention.

Claims 22 and 49 recite, "each partial data". There is insufficient antecedent
basis for this limitation in the claims.

## Claim Rejections - 35 USC § 102

6.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that
form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.      Claims 1-7, 11-12, 15, 17, 23, 28-34, 38-39, 42, 44, 50 and 55 are rejected under

35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,396,63 to Shaffer et al.

(hereinafter "Shaffer").

Regarding claim 28, Shaffer discloses a data editing apparatus for performing

editing on binary data, comprising:

storage means for storing plural templates having keywords  (photocollages,

prior to insertion of images, having various layouts; column 1, lines 63-67; column 4,

line 52, and column 5, lines 18-19; Fig.9; note that keywords such as vacation, wedding,

birthday party, etc., are used);

assignment means for assigning each of plural binary data to one of said plural

templates based on said keywords (column 6, lines 8-20; column 9, lines 61-64; column

10, lines 13-16 and 25-27); and

construction means for, upon reproduction of said plural binary data by using

said plural templates, constructing reproduction data so as to reproduce said plural

binary data in accordance with the result of assignment by said assignment means

(Fig.2; Fig.7, step 154).

Regarding claim 29, Shaffer discloses the data editing apparatus according to

claim 28, wherein said assignment means assigns each of said plural binary data to one

of said plural templates, based on comparison between the keywords of said plural

templates and keywords of said plural binary data (column 6, lines 8-20, i.e., the

"birthday" keyword for the template is compared to specific dates for the images;

column 8, line 49 to column 9, line 2).

As to claim 30, Shaffer discloses the data editing apparatus according to claim

29, wherein the keyword of said binary data is described in meta data added to each

binary data (column 4, lines 37-45; column 10, lines 25-27).

With regard to claim 31, Shaffer discloses the data editing apparatus according

to claim 28, wherein said binary data is image data, and wherein said assignment

means assigns each of said plural binary data to one of said plural templates, based on

comparison between image feature amounts of the keywords of said plural templates

and image feature amounts of keywords of said plural binary data (e.g., column 8, lines

56-58, "when" compared with date and time).

As to claim 32, Shaffer discloses the data editing apparatus according to claim

28, further comprising designation means for designating one of plural themes to which

different combinations of plural different templates are linked, wherein said assignment

means performs processing by using plural templates linked to the theme designated by

said designation means (column 1, lines 63-67; Fig.9).

As to claim 33, Shaffer discloses the data editing apparatus according to claim

28, further comprising designation means designating a desired binary data group,

wherein said assignment means performs processing on respective binary data of the

binary data group designated by said designation means (column 7, lines 61-66).

Regarding claim 34, Shaffer discloses the data editing apparatus according to

claim 28, wherein each of said plural templates has a limitation number for assignment

of binary data, and wherein if binary data more than the limitation number of one

template are assigned to the template, said assignment means assigns remaining

binary data to a predetermined template among said plural templates (each template,

e.g., Fig.9, has an inherent limitation number; note also that since a photocollage can

have more than one page, column 2, line 2, remaining any remaining images would be

assigned to remaining pages).

As to claim 38, Shaffer discloses the data editing apparatus according to claim

28, further comprising: designation means for designating a template upon reproduction

of the reproduction data constructed by said construction means; and  reproduction

means for reproducing the binary data assigned to the templates by said assignment

means by reproducing data on the template designated by said designation means from

said reproduction data (column 6, lines 8-14; Fig.7, step 154).

As to claim 39, Shaffer discloses the data editing apparatus according to claim

28, wherein said binary data is moving image data, and wherein said construction

means constructs the reproduction data by describing a display description for

reproducing moving images assigned to the templates by said assignment means in the

templates (column 4, lines 30-32; column 8, lines 33-40).

Regarding claim 42, Shaffer discloses rhe data editing apparatus according to

claim 39, wherein plural themes and plural templates are stored in storage means,

wherein plural templates to be used are registered in each of said plural themes, and

wherein said apparatus further comprises selection means for selecting a desired one of said plural themes, further wherein said assignment means and said construction means perform processing on plural templates registered in the theme selected by said selection means (column 1, lines 63-67; column 5, lines 18-19; column 6, lines 8-9; since a customer can request a certain theme, a selection means is inherent).

Regarding claim 44, Shaffer discloses the data editing apparatus according to claim 39, further comprising determination means for, if the moving image data is assigned to plural templates, determining only one template in which said moving image data is display-described (Shaffer's system deletes the identical content, column 7, lines 34-38).

As to claim 50, Shaffer discloses the data editing apparatus according to claim 39, wherein said assignment means has: conversion means for converting a keyword into an image feature amount; acquisition means for acquiring an image feature amount from moving image data; and search means for searching for a moving image corresponding to said keyword based on the image feature amount obtained by said conversion means and the image feature amount acquired by said acquisition means, and wherein the moving image found by said search means is assigned to the template (column 7, lines 39-55).

Claim 55 is a control program which corresponds to claim 28. The discussion provided above for claim 28 is applicable. The control program is inherent in the computer-based system shown in Fig.2.

Regarding claims 1-7, 10-12, 15, 17 and 23, see the remarks provided above for

claims 28-34, 37-39, 42, 44, 50 and 55 respectively.

### *Claim Rejections - 35 USC § 103*

8.      The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

9.      Claims 10, 16, 19, 24-27, 37, 43, 46 and 51-54 are rejected under 35 U.S.C.

103(a) as being unpatentable over Shaffer.

Regarding claim 37, Shaffer does not disclose deleting a template to which

binary data has not been assigned by said assignment means from said plural

templates.  However, deleting a template would have been obvious to one of ordinary

skill in the art in view of Shaffer's invention because if no binary data is assigned to a

photocollage, it would be of little use to keep the photocollage, as it would not provide

any binary data to reproduce.

With regard to claim 43, Shaffer does not disclose that said construction means

makes display descriptions for the plural templates registered in the theme selected by

said selection means, and arranges the result of these descriptions as one file.

However, both of these are seen as based on designer preference.  A designer would,

for example, wish to display the descriptions (e.g., the theme) to allow a viewer to

ascertain the subject matter of a given photocollage. The number of files is not seen as a patentable difference in that a designer would utilize a particular number of files appropriate for a specific application, or based on system requirements.

With regard to claim 46 Shaffer does not disclose that said template is described in a data description language. The Examiner takes Official Notice that data description languages are well known. It would have been obvious to describe Shaffer's templates in a data description language because this would provide the templates in a common format which would provide improved compatibility.

Regarding claims 51 and 52, Shaffer does not disclose that said image feature amount relates to location of color of image (claim 51) or is obtained from outline of object in the image (claim 52). However, the Examiner takes Official Notice that the location of colors in an image and an outline of an object in an image are well known image feature amounts. It would have been obvious to one of ordinary skill in the art to utilize these feature amounts because both are easily implementable and efficiently locate regions/objects in an image, which would be useful to locate faces for example (which is performed by Shaffer's system).

Regarding claims 53 and 54, Shaffer does not disclose displaying a title. However, this is seen as based on designer preference. A designer would, for example, wish to display a title (e.g., the theme) to allow a viewer to ascertain the subject matter of a given photocollage quickly and easily.

Regarding claims 10, 16, 19 and 24-27, refer to the remarks provided above for claims 37, 43, 46 and 51-54 respectively.

10.    Claims 20-21 and 47-48 are rejected under 35 U.S.C. 103(a) as being

unpatentable over the combination of Shaffer   and U.S. Patent Application Publication

2004/0078293 to Iverson et al. (hereinafter "Iverson").

Regarding claim 47, Shaffer does not disclose that said moving image data has

meta data linked to said moving image data, and wherein said assignment means

performs assignment of moving image data by searching for the meta data using said

keyword.  However, this is well known in the art.  For example, Iverson teaches meta

data linked to moving image data, and assigning moving image data by searching for

meta data using a keyword (paragraph [0024]; paragraph [0027], lines 1-2; Fig.4, blocks

410 and 412).  Linking meta data to moving the image data, and assigning the moving

image data by searching the meta data using the keyword, as taught by Iverson, would

improve the speed of photocollage creation.  Therefore, it would have been obvious to

one of ordinary skill in the art to modify Shaffer's invention according to Iverson.

With regard to claim 48, Shaffer does not disclose that said meta data is

described in a data description language.  However, this is well known in the art as

evidenced by Iverson.  Iverson discloses utilizing XML (paragraph [0030]).  Iverson

states that XML has widespread industry support.  Therefore, it would have been

obvious to one of ordinary skill in the art to modify Shaffer according to Iverson to utilize

a data description language.

As to claims 20-21, the remarks provided above for claims 47-48 are applicable.

## *Allowable Subject Matter*

11.     Claims 8-9, 13-14, 18, 35-36, 40-41 and 45 are objected to as being dependent

upon a rejected base claim, but would be allowable if rewritten in independent form

including all of the limitations of the base claim and any intervening claims.

12.     Claims 22 and 49 are would be allowable if rewritten to overcome the rejection(s)

under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of

the limitations of the base claim and any intervening claims.


## *References Cited*

13.     The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

        U.S. Patent Application Publication 2202/0040375 discloses a method of

organizing digital images on a page in a predetermined page format, in accordance with

predetermined criteria.

        U.S. Patent 6,389,181 to Shaffer et al. discloses photocollage generation and

modification using image recognition.

        U.S. Patent Application Publication 2002/0075330 to Rosenzweig et al. teaches

using metadata for retrieving pictures from a database.

        U.S. Patent Application Publication 2002/0093678 to Skidgel et al. teaches the

use of keywords to search and retrieve images.

U.S. Patent Application Publication 2002/0122067 to Geigel et al. discloses a system and method for automatic layout of images in digital albums. The patent also teaches the use of XML for page layouts.

U.S. Patent Application Publication 2002/0154147 to Battles discloses a photo ranking system for creating digital album pages.

U.S. Patent 6,504,571 to Narayanaswami et al. discloses a system for querying digital image archives using recorded parameters.

U.S. Patent 6,690,843 to Squilla et al. discloses a system and method for constructing a photo album.

## *Contact Information*

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jon Chang whose telephone number is (703)305-8439.

The examiner can normally be reached on M-F 8:00 a.m.-6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Amelia Au can be reached on (703)308-6604. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jon Chang
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Jon Chang
August 23, 2004